Supreme Court, U.S.
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No. 06-799

In The
Supreme Court of the United States

D.T. & M.T.ON BEHALF OF MINOR CHILD, N.T.,

Petitioner,

v.

BRIDGEWATER-RARITAN REGIONAL BOARD OF EDUCATION,

Respondent,

Petition for a Writ of Certiorari to the New Jersey Supreme Court

Petition for a Writ of Certiorari

Dominick Theresa
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908-208-1960

December 4, 2006

QUESTION PRESENTED

1. Whether the New Jersey Supreme Court inadequately handled and ignored the Pro se Petitioner's Prima Facie evidence, in which all Pro-se Petitioners are not treated equally under N.J.A.C. 6A:3-8.1 and that the Education Law Center of New Jersey recognized this and strongly urged the New Jersey Department of Education that these Rules & Regulations be modified to extinguish any and all discrimination from one Pro se Petitioner to another, as these rules are currently not in compliance with the federally-required law of the No Child Left Behind (NCLB) Act.

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D.T. & M.T.ON BEHALF OF MINOR CHILD, N.T.,

Petitioner,

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BRIDGEWATER-RARITAN REGIONAL BOARD OF EDUCATION,

Respondent,

Petition for a Writ of Certiorari to the
New Jersey Court of Appeal,
Appellate Division

Petition for a Writ of Certiorari

The Petitioners, State of New Jersey prays that the Court issue a Writ of Certiorari to review the judgment of the Court of Appeal for the State of New Jersey, Supreme Court.

OPINIONS BELOW

New Jersey State Board of Education, Dismissed

consolidated appeal dated February 2, 2005 (Appendix 1A).

The Per Curiam of the Court of Appeal of New Jersey, Appellate Division on May 12, 2006 (Appendix 2a to 5a).

New Jersey Supreme Court denied the Petition for Certification, on September 8, 2006 (Appendix 4a).

JURISDICTION

New Jersey Supreme Court denied the Petition for Certification on September 8, 2006. (Appendix 4a)

This Court has Jurisdiction under 28 U.S.C. § 1257.

CONSTITUTIONAL AND STATUTES INVOLVED

Sixth Amendment: The right to conduct his or her own defense as necessary to a fair trial under the Due Process clause and to have compulsory process for up obtaining witnesses and his favor.....7

Fourteenth Amendment: No state shall make or enforce any law, which shall abridge the privileges or immunities of citizens of the U.S.: nor shall any state deprive any person of life, Liberty or property, without due process of law: nor deny any person without its jurisdiction the equal protection of the law.....7

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No Child Left Behind (NCLB) Act.....8

STATEMENT OF THE CASE

Petitioners N.T. and M.T. on December 20, 2002 had met with the Bridgewater-Raritan middle school Principal to try and clear up an alleged incident, which had involved their son, minor N.T. The incident did not get resolved at this level, nor multiple levels after that either. So the Petitioners had then filed an appeal with the Commissioner of the New Jersey Department of Education and on good gesture, sent a copy of this appeal to the Bridgewater-Raritan Board of Education. The petitioners were not required to do so, as they were presumably following rule **N.J.A.C.** 6A:3-8.1, for "Pro se Petitioners" to file their appeals, which states that petitioners need not submit their appeal to the Respondent Board of Education, but to file it directly with the Bureau of Controversies and Disputes, within the New Jersey Department of Education. The Bureau of Controversies and Disputes received the appeal and sent acknowledgement to the Board Attorney, that they had received the Petitioner's

appeal. The Board Attorney then began to continuously try to avoid the appeal, by saying that the Petitioner was responsible for sending a copy of the appeal to him. The Board Attorney was stating that the rule in which the petitioners were following, was not the correct rule and that they were inaccurately following N.J.A.C. 6A:3-8.1, was insufficient because that rule only applied to appeals concerning a child's right to attend school and that these appeals from the petitioners concerned the son's alleged suspension from riding the school bus, but not his exclusion from school. Therefore, the Board Attorney was claiming that they were allegedly not following the correct rule, so for that reason, their appeal should not be acknowledged.

However, the Bureau of Controversies and Disputes, after reviewing rules and evidence provided by the Pro se Petitioners, sent a letter to the Board Attorney, dated February 26, 2004, stating that the Petitioners had satisfied and was in accordance with Rule **N.J.A.C.** 6A:3-1.3(a) and

(c) and 4 under "Filing and service of petition of appeal". Nevertheless, the Board Attorney refuted this and he and the Petitioner then proceeded to go through multiple levels to argue this disagreement, as the Petitioners had a right to their appeal being given "Due Process to a Fair Hearing".

During this time, Bridgewater-Raritan Board of Education had also placed seven (7) more alleged incident's upon N.T.. The Petitioners N.T. and M.T. now had filed a total of eight (8) separate petitions of appeals with the Commissioner of Education. All 8 separate petitions of appeals were then filed with New Jersey State Board of Education. The State Board of Education than consolidated all 8 petitions of appeals and addressed it into just one (1) appeal. This 1 appeal then was filed upon the Superior Court of New Jersey Appellate Division and the Supreme Court of New Jersey as it was only addressing how all "Pro se Petitioner (s)" should be treated and equal.

REASONS FOR GRANTING THE WRIT

1. The Issue Of How N.J.A.C. 6A:3-8.1 Discriminates Against One Pro se Petitioner To Another, Causing Confusion And Harm To The Pro se Petitioners Filing Their Own Appeal And Should Be An Important Issue Of Federal Law Which Should Be Addressed By The U.S. Supreme Court And Be Of Substantial Importance For The General Public And All Pro Se Petitioners.

By accepting this writ and correcting this matter, it would ensure that all Pro se Petitioners are treated with fair, equal justice, Due Process to a Fair Hearing under the **Sixth and Fourteenth Amendments** and are not discriminated against in any filing of petitions/appeals and are in accordance with the **N.J.A.C.** 6A:3-1.3. Requirements of **TITLE** 18A and **TITLE** 6A of Education.

The Education Law Center of New Jersey has recognized this by providing a letter dated September 1, 2004, that this particular rule causes distress and unfairness and strongly urged the New Jersey Department of Education that these

Rules & Regulations must be modified to present a clear understanding for Pro se Petitioners, as these rules are currently not in compliance with the federally required law of the No Child Left Behind **(NCLB) Act**.

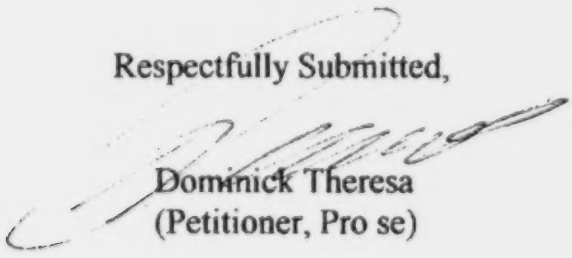
The Department and the State Board are not compliant with the federally-required law, NCLB Act, as it requires the state educational agencies to have "the adoption of written procedures for the receipt and resolution of complaints alleging violations of law in the administration of the programs for the filing of **NCLB** complaints".

Thus, **N.J.A.C.** 6A:3-8.1 needs to either be modified to fit the required rules and also conform to unprejudicial behavior from one Pro se Petitioner to another, as not to cause any confusion and unnecessary loss of cases for the Pro se Petitioner.

CONCLUSION

This Court should grant this Petition for Writ of Certiorari to D.T. & M.T., Pro se Petitioner's. The above prima facie merits clearly show that one Pro se Petitioner should not be discriminated against another, but all treated equal and in compliance with the federally required laws of receiving Due Process to a Fair Hearing. This case would affect and present substantial questions to the General Public Importance, upon all future "Pro se Petitioners".

Respectfully Submitted,



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Appendix

[filed: February 2, 2005]

NEW JERSEY STATE BOARD OF EDUCATION

Docket No. 45-03, 9-04, 24-04, 25-04,
26-04, 27-04, 28-04, 29-04 *(Consolidated)*

D.T. & M.T.ON BEHALF OF MINOR
CHILD, N.T.,

Petitioner/Appellant,

v.

BRIDGEWATER-RARITAN REGIONAL
BOARD OF EDUCATION,

Respondent/Respondent,

Consolidated appeal dismissed.

s/ The Commissioner William L. Librera,
Secretary, State Board of Education

Appendix

[filed: May 12, 2006]

SUPERIOR COURT
OF NEW JERSEY APPELLATE DIVISION

Docket No. A—3629-04T1

D.T. & M.T.ON BEHALF OF MINOR
CHILD, N.T.,

Petitioner/Appellant,

v.

BRIDGEWATER-RARITAN REGIONAL
BOARD OF EDUCATION,

Respondent/Respondent,

Per Curiam

Petitioners D.T. and M.T. appeal from a final decision of the State Board of Education dated February 4, 2005, dismissing eight consolidated appeals concerning disciplinary actions taken against their son, N.T.

The relevant facts are as follows. D.T. and M.T. filed a series of appeals seeking to challenge disciplinary action

imposed on their son by the Bridgewater-Raritan Regional School District. The appeals were consolidated and petitioners filed a brief in support of their appeal, but they failed to serve the brief on the School District's attorney. They claimed that they mailed a copy to the School District offices, but the District contended that it never received the papers. The Director of the State Board Appeals Office repeatedly directed petitioners to serve their brief on the School District's attorney, and petitioners repeatedly refused to do so. Hence, their appeal was dismissed.

Having reviewed the record, we conclude that the petitioners' arguments are without sufficient merit to warrant discussion in a written opinion, R. 2:11-3 (e) (1) (E) , and we affirm substantially for the reasons set forth in the February 4, 2005 written decision of the State Board of Education. We add the following comments.

The Administrative Procedure Rules, which apply to all State agency contested cases, require that briefs be served on the opposing party's attorney:

> Any paper filed shall be served in the manner provided by (a) above upon all attorney or other representatives and upon all parties appearing pro se, either before filing or promptly thereafter unless otherwise provided by order.

The regulation on which petitioners rely, N.J.A.C. 6A:3-8.1, is inapplicable because that rule only applies to appeals concerning a child's entitlement to attend school; these appeals concerned petitioner's son's suspensions from riding the school bus and possibly other issues, but not his exclusion from school.

Although petitioners were representing themselves, they were required to follow the applicable procedural rules like any other litigants. They were also obligated to follow the State Board's directions with respect to perfecting their

appeal. They repeatedly refused to do so. Their appeal was properly dismissed.

Affirmed.

s/ The Honorable Coburn and S.L. Reiser

Appendix

[filed: September 8, 2006]

IN THE SUPREME COURT OF NEW JERSEY

Docket No. 59,688

D.T. & M.T.ON BEHALF OF MINOR CHILD, N.T.,

Petitioner/Appellant,

v.

BRIDGEWATER-RARITAN REGIONAL BOARD OF EDUCATION,

Respondent/Respondent,

Petition for Certification is denied.

s/ The Honorable Virginia A. Long
Presiding Justice